

REMARKS

Applicants have studied the Office Action dated January 13, 2006 and the Notice of Non-Compliant Amendment dated May 4, 2006. The Applicants assert that no amendment is being made as a part of this election with traverse.

In response to the restriction requirement under 35 U.S.C. § 121, Applicants provisionally elect, with traverse, for continued prosecution of the Group I claims (i.e., claims 1-4, 6-9, 11-14 and 16-19) drawn to a communication method for transmitting data from a server to a requesting computer.

The Applicants respectfully traverse this restriction requirement. The Examiner states that the presently pending claims are drawn to two inventions, a first invention set forth by claims 1-4, 6-9 and 16-19, wherein "a server limits the rate of transmission to a requesting computer by using a speed indication signal sent from a requesting computer" and a second invention set forth by claims 5, 10 and 15, wherein "a requesting computer limits the rate of transmission of data from a server by generating a schedule using pause and resume transmission signals based on a user input speed setting at the requesting computer." Office Action dated January 13, 2006, page 3, first paragraph. The Applicants assert that these two sets of claims are not drawn to "independent and distinct inventions" as is required for a proper election requirement. 35 U.S.C. §121, MPEP §802.01.

The Applicants assert that claims 5, 10 and 15 are drawn to a more specific implementation of the broader invention set forth by independent claims 1, 6 and 16. The sequence of pause transmission and resume transmission signals as set forth in these claims is used by the server computer in "limiting an average rate of transmission." The Applicants therefore assert that these inventions are not distinct and that they do overlap in scope.

In view of the foregoing, it is respectfully submitted that the restriction requirement should be withdrawn, and that the application and the claims are in condition for allowance. Reexamination

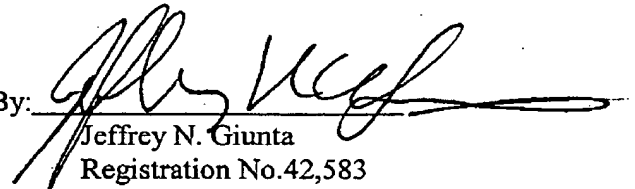
and reconsideration of the application are requested.

If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is invited to call the undersigned attorney at the telephone number below should the Examiner believe a telephone interview would advance the prosecution of the application.

Respectfully submitted,

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By:


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